

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION

FINISAR CORP.,

*Plaintiff,*

v.

THE DIRECTV GROUP, INC., ET AL.,

*Defendants.*

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Civil Action No. 1:05-CV-264

JUDGE RON CLARK

**ORDER DISPOSING OF PENDING MOTIONS AND OBJECTIONS**

On May 8, 2006 the court held a hearing on pending motions. For the reasons stated on the record at the hearing, the court disposed of certain motions and objections to experts.

IT IS THEREFORE ORDERED that Plaintiff's Motion for Summary Judgment on Direct and Literal Infringement of Claim 16 [**Doc. #99**] is **DENIED**.

IT IS FURTHER ORDERED that Plaintiff's Motion for Summary Judgment on Direct and Literal Infringement of Claims 17, 22, 24, and 26 [**Doc. #108**] is **DENIED**.

IT IS FURTHER ORDERED that Defendants' Motion for Summary Judgment of Noninfringement [**Doc. #105**] is **DENIED**.

IT IS FURTHER ORDERED that Plaintiff's Motion for Summary Judgment that Printed Publications are not "printed publications" [**Doc. #110**] is **DENIED as moot**. The court treated the motion, responses, and replies as evidentiary objections and responses. For the reasons stated on the record, the court **SUSTAINED and OVERRULED** objections to certain "printed publications." Attached as Exhibit A is a chart identifying the specific prior art reference and the court's ruling. If the court sustained the objection, the prior art reference shall not be used for either the anticipation defense or obviousness defense.

IT IS FURTHER ORDERED that Plaintiff's Motion to Strike the Declarations of Parsons, Stiegler, Curtis, Ardis, Senter, Ireland, Langley, Mead, Lippman, Castell, Neuhauser, and Fleishauer, which pertained to the "printed publications" just mentioned **[Doc. #146]** is **DENIED as moot**; Exhibit A.

IT IS FURTHER ORDERED that Finisar's Motion to Strike DirecTV's Production of Four Sky Cable Documents **[Doc. #159]** is **DENIED**.

IT IS FURTHER ORDERED that Plaintiff's Objections to Tjaden and Neuhauser's Expert Reports that Claims are Invalid for Obviousness **[Doc. #114]** are **SUSTAINED in part**. Certain references discussed in Dr. Tjaden's and Dr. Neuhauser's reports have been stricken by the court's Order Striking Invalidity Disclosures [Doc. #91]. Other references were objected to as "printed publications" and the court sustained some of those objections. *See* Exhibit A. The court reserved ruling on the issue of obviousness discussed in Dr. Tjaden's and Dr. Neuhauser's reports.

IT IS FURTHER ORDERED that Plaintiff's Objections to Expert Opinions Related to Selected "Anticipation References" **[Doc. # 115]** are **DENIED without prejudice**.

IT IS FURTHER ORDERED that Plaintiff's Motion to Strike Certain Declarations of Tjaden and Neuhauser **[Doc. #167]** is **DENIED as moot without prejudice**. DirecTV stated that these declaration were intended solely for the court and DirecTV was not trying to supplement its expert reports. To the extent these declarations are being offered as a supplemental expert report, they are not timely. Further, any prior art reference discussed in the declarations that was not properly disclosed and charted will not be admitted.

IT IS FURTHER ORDERED Plaintiff's Motion to Expedite Motion to Strike Certain Declarations of Tjaden and Neuhauser [**Doc. #168**] is **DENIED as moot**.

IT IS FURTHER ORDERED Plaintiff's Motion for Leave to File Excess pages [**Doc. #171**] is **GRANTED**.

So **ORDERED** and **SIGNED** this **9** day of **May, 2006**.

A handwritten signature in black ink, appearing to read "Ron Clark", is written above a horizontal line.

Ron Clark, United States District Judge

**Exhibit A**

<b>REFERENCE NO.</b>	<b>TITLE OF REFERENCE</b>	<b>COURT'S RULING</b>
1	"11th International Television Symposium – Symposium Record"	Objection Sustained as to being used as "printed publication"
2	"Digital Transmission of Broadcast Television with Reduced Bit Rate"	Objection Overruled
3	"Dynamically Redefined Character Sets-D.R.C.S."	Objection Sustained as to being used as "printed publication"
4	"MPEG: A Video Compression Standard for Multimedia Applications"	Objection Sustained as to being used as "printed publication"
5	"Oracle – An Information Broadcasting Service Using Data Transmission in the Vertical Interval"	Objection Overruled
6	"Polychannel Systems for Mass Communications"	Objection Sustained as to being used as "printed publication"
7	"Teletext in the U.S.A."	Objection Overruled
8	"Update of a CD-ROM Database Using BBC Datacast to Provide a Nationwide Real-Time Information Service: The ECCTIS Educational Pilot"	Objection Sustained as to being used as "printed publication"
9	"CCIR Standard for Digital Video: CCIR 601, 1990"	Objection Overruled
10	"Biggs, A.J., and Barnaby, B.S., 'Broadcast data in television'"	Objection Overruled
11	"Broadcast Teletext Specification"	Objection Overruled
12	"Touch-Tone' Teletext – A Combined Teletext-Viewdata System"	Objection Overruled
13	"Viewdata and Videotext, 1980-81: A Worldwide Report"	Objection Overruled
14	"INDAX: An Operational Interactive Cabletext System"	Objection Overruled
15	"The Architecture of Videotext Systems"	Objection Overruled
16	"Telesoftware Via Full Channel Teletext"	Objection Sustained as to being used as "printed publication"
17	"Scientific Atlanta Services, Features and Functions – Annex 6"	Objection Sustained as to being used as "printed publication"
18	"Conference on Electronic Delivery of Data and Software, The Cavendish Conference Centre, Sept. 16-17, 1986, London, Institute of Electronic and Radio Engineers"	Objection Sustained as to being used as "printed publication"
19	"Request for information on Sky Cable"	Objection Overruled